

**CITY OF FREDERICKSBURG
CITY COUNCIL
715 PRINCESS ANNE STREET
FREDERICKSBURG, VIRGINIA 22401**



**PUBLIC HEARING
September 14, 2010**

7:30 P.M.

The City Council of the City of Fredericksburg will hear and may take action on the following public hearings:

- Renewing a lease with T-Mobile Northeast LLC for space on the Courtland Water Tank for telecommunications equipment.

Copies of the full text of the above-listed items are available for public review in the office of the Clerk to Council, City Hall, Suite 208, 715 Princess Anne Street, Fredericksburg, VA or they may be viewed on the City's website by directing your browser to <http://www.fredericksburgva.gov> the Friday before the Public Hearing, beginning at 11 a.m.

For additional information, contact Tonya B. Lacey, Clerk of Council, at 540-372-1010. You may appear at the Council Chamber in the City Hall Building, 715 Princess Anne Street, Fredericksburg, Virginia, at the designated time to express your views.

ACCESSIBILITY TO PERSONS WITH DISABILITIES: The hearings are being held at a public facility believed to be accessible to persons with disabilities. Any persons with questions on the accessibility of the facility should contact Tonya B. Lacey, Clerk of Council, at 715 Princess Anne Street, Fredericksburg, Virginia, or by telephone at (540)-372-1010. Persons needing interpreter services for the deaf must notify the Clerk of Council no later than Wednesday, September 8, 2010.

Thomas J. Tomzak
Mayor

---END---

**Run dates: August 31 & September 7, 2010
Please run in the Spotsy/City Extra**



*To: Mayor & Council
BL 9.8.10*

MEMORANDUM

TO: City Council

FROM: Kathleen Dooley, City Attorney *Dooley*

DATE: August 20, 2010

RE: Renewal of T-Mobile telecommunications lease
Courtland Water Tank

ISSUE:

Shall the City renew its 2005 lease with T-Mobile for telecommunications facilities at the Courtland Water Tank?

RECOMMENDATION:

Yes. T-Mobile is paid in full in rent, with its certificates of insurance up to date. Leasing space at the Courtland Water Tank for telecommunications facilities (1) generates revenue for the City's water fund; (2) reduces the number of telecommunications pole structures in the City; and (3) facilitates the provision of reliable telecommunications services to Fredericksburg residents.

BACKGROUND:

T-Mobile (then "Omnipoint") entered into a five year lease with the City in 2005 for space on the Courtland Water Tank for up to 9 antennas plus ground space. The annual rent was fixed at \$26,224 payable annually in advance. The lease expires September 30, 2010 and T-Mobile would like to renew the lease. T-Mobile has been a good tenant and there have been no operational concerns with this use of the Courtland Water Tank.

I recommend that the Council grant the renewal at the current rent amount for the first year, with a 3% escalator in the remaining years of the renewal term.

The rent amount is consistent with the amount that Verizon is paying for space on the same water tank.



MOTION:

September 14, 2010

SECOND:

Regular Meeting

Ordinance No. 10-__

RE: RENEWING A LEASE WITH T-MOBILE NORTHEAST LLC FOR SPACE ON THE COURTLAND WATER TANK FOR TELECOMMUNICATIONS EQUIPMENT

IT IS HEREBY ORDAINED by the City Council of the City of Fredericksburg, Virginia, as follows:

SEC. I. Introduction.

The City of Fredericksburg owns real property located at 123-127 Ashby Street, tax map number 257-AB-123, which is the site of the Courtland Water Tank. By authority of Ordinance No. 05-22, duly adopted by the City Council on August 9, 2005, the City leased space at the Courtland Water Tank site to Omnipoint Communications Cap Operations, LLC, and now to its successor in interest, T-Mobile Northeast LLC ("T-Mobile"). The purpose of the lease is to provide space for telecommunications antennas and related ground equipment. The five year lease term expires September 30, 2010. T-Mobile wishes to renew its lease, and the City Council agrees to do so, in accordance with the terms and conditions of the proposed Lease Renewal Agreement.

Under the proposed Lease Renewal Agreement, the lease rent is structured as an annual amount, payable in advance, with an annual 3% escalation. The new rent for the first year of the proposed renewal term is \$26,224.00. The use of the Courtland Water Tank site for telecommunication providers generates revenues for the City's water fund, reduces the number of telecommunication facilities in the City, and provides reliable telecommunications for City residents.

T-Mobile has paid all sums due and owing to the City under the terms of the Lease. City Council and T-Mobile wish to renew the lease for a second five-year term, to begin October 1, 2010 and terminate September 30, 2015. Council held a public hearing on this proposed lease on September 28, 2010.

SEC. II. Renewal of Lease.

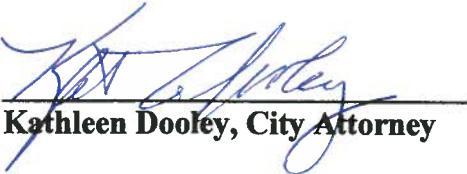
The City Manager is authorized to execute, on behalf of the City of Fredericksburg, a Lease Renewal Agreement with T-Mobile Northeast, LLC substantially in the form submitted for approval.

SEC. III. Effective Date.

This ordinance shall be effective immediately.

First reading: _____ **Second reading:** _____

Approved as to form:


Kathleen Dooley, City Attorney

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 10-_____, duly adopted the City Council meeting held _____ at which a quorum was present and voted.

Tonya Lacey
Clerk of Council

LEASE RENEWAL AGREEMENT

THIS is a LEASE RENEWAL AGREEMENT, made and entered into this _____ day of _____, 20____, by and between the CITY OF FREDERICKSBURG, VIRGINIA, Lessor (the "Lessor" or "the City"), a municipal corporation, and T-MOBILE NORTHEAST LLC, a Delaware limited liability company authorized to do business in Virginia, with an address at 12050 Baltimore Avenue (the Lessee").
Beltville, MD 20705

RECITALS

- A. The City and Omnipoint Communications Cap Operations, LLC entered into a five-year Lease Agreement dated August 16, 2005, under which Omnipoint leased space on the Courtland Water Tank for no more than nine (9) antennas and ground space consisting of an area approximately 20 feet by 10 feet, for the construction, operation, and maintenance of telecommunications equipment and associated facilities (the Lease).
- B. Effective January 1, 2006, Omnipoint transferred the lease by an internal assignment to another T-Mobile subsidiary, T-Mobile Northeast LLC as part of a T-Mobile corporate restructuring process. T-Mobile Northeast LLC assumed all of Omnipoint's obligations and responsibilities under the lease.
- C. The City and T-Mobile Northeast LLC wish to renew the lease, as amended in this Lease Renewal Agreement.

AGREEMENT

- 1. The foregoing recitals are incorporated herein.
- 2. The City and T-Mobile Northeast LLC agree to renew the lease dated August 16, 2005, which shall remain in full force and effect except as amended herein, with T-Mobile as the Lessee.
- 3. Paragraph 4(a) is amended to read as follows. The remaining sub-paragraphs of paragraph 4 are not amended.
- 4. **Rent.**
 - a. Upon the Commencement Date and annually thereafter, the Lessee shall pay the City, as rent for the Premises, the sum of TWENTY-SIX THOUSAND TWO HUNDRED TWENTY-FOUR AND 00/100 DOLLARS (\$26,224.00) ("Rent") payable annually in advance to the City at the City's address specified in paragraph 17 below. Rent shall increase by three percent (3%) for each subsequent year of the term. In the

event the City grants each individual extension term as provided in paragraph 3, Rent shall continue to increase by three percent (3%) for each subsequent year of each individual Renewal Term.

4. This is the first of the three renewal terms permitted by the lease. The renewal term shall be September 1, 2010 to August 31, 2015.

~~IN WITNESS WHEREOF~~, the City and the Lessee have executed this Lease Renewal Agreement by affixing the signatures and seals of their duly authorized agents.

CITY OF FREDERICKSBURG, VIRGINIA
A municipal corporation

By: _____
Beverly R. Cameron, City Manager

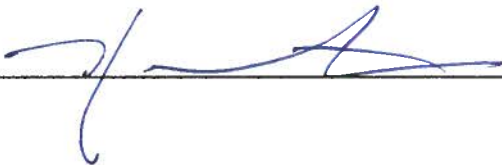
Attest:

Deputy Clerk

Approved as to form:

Kathleen Dooley, City Attorney

T-MOBILE NORTHEAST LLC, a Delaware
limited liability company

By:  _____

Attest:

Secretary